

CHAPTER 180**EDUCATION — ADMINISTRATION, REGULATION,
AND OTHER RELATED MATTERS***H.F. 549 Bill History*

AN ACT relating to the duties and operations of the department of education, the board of educational examiners, the state board of regents and its universities, and school boards, and to property tax school reorganization incentives; requiring the establishment of a reading instruction pilot program; and including effective and retroactive applicability date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 256.5A, Code 2003, is amended to read as follows:
256.5A NONVOTING MEMBER.

The governor shall appoint the one nonvoting student member of the state board for a term of one year beginning and ending as provided in section 69.19. The nonvoting student member shall be appointed from a list of names submitted by the state board of education. Students enrolled in either grade ten or eleven in a public school may apply to the state board to serve as a nonvoting student member. The department shall develop an application process that requires the consent of the student's parent or guardian if the student is a minor, initial application approval by the school district in which the student applicant is enrolled, and submission of approved applications by a school district to the department. The nonvoting student member's school district of enrollment shall notify the student's parents if the student's grade point average falls during the period in which the student is a member of the state board. The state board shall adopt rules under chapter 17A specifying criteria for the selection of applicants whose names shall be submitted to the governor. Criteria shall include, but are not limited to, academic excellence, participation in extracurricular and community activities, and interest in serving on the board. Rules adopted by the state board shall also require, if the student is a minor, supervision of the student by the student's parent or guardian while the student is engaged in authorized state board business at a location other than the community in which the student resides, unless the student's parent or guardian submits to the state board a signed release indicating the parent or guardian has determined that supervision of the student by the parent or guardian is unnecessary. The nonvoting student member ~~shall be appointed without regard to political affiliation~~ appointment is not subject to section 69.16 or 69.16A. The nonvoting student member shall have been enrolled in a public school in Iowa for at least one year prior to the member's appointment. A nonvoting student member who will not graduate from high school prior to the end of a second term may apply to the state board for submission of candidacy to the governor for a second one-year term. A nonvoting student member shall be paid a per diem as provided in section 7E.6 and the student and the student's parent or guardian shall be reimbursed for actual and necessary expenses incurred in the performance of the student's duties as a nonvoting member of the state board. A vacancy in the membership of the nonvoting student member shall not be filled until the expiration of the term.

Sec. 2. Section 256.7, subsection 21, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Develop and adopt rules ~~by July 1, 1999,~~ incorporating accountability for, and reporting of, student achievement into the standards and accreditation process described in section 256.11. The rules shall provide for all of the following:

Sec. 3. Section 256.9, subsection 50, Code 2003, is amended to read as follows:

50. Develop core knowledge and skill criteria ~~models,~~ based upon the Iowa teaching standards, for the evaluation, the advancement, and for teacher career development purposes

pursuant to chapter 284. The model criteria shall further define the characteristics of quality teaching as established by the Iowa teaching standards. The director, in consultation with the board of educational examiners, shall also develop a transition plan for implementation of the career development standards developed pursuant to section 256.7, subsection 25, with regard to licensure renewal requirements. The plan shall include a requirement that practitioners be allowed credit for career development completed prior to implementation of the career development standards developed pursuant to section 256.7, subsection 25.

Sec. 4. Section 256.9, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 52. Develop and implement a comprehensive management information system designed for the purpose of establishing standardized electronic data collections and reporting protocols that facilitate compliance with state and federal reporting requirements, improve school-to-school and district-to-district information exchanges, and maintain the confidentiality of individual student and staff data. The system shall provide for the electronic transfer of individual student records between schools, districts, postsecondary institutions, and the department. The director may establish, to the extent practicable, a uniform coding and reporting system, including a statewide uniform student identification system.

*Sec. 5. Section 256.9, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 53. Develop and implement a statewide program of educational assessment reporting. The director shall provide information needed to improve public schools by collecting and disseminating data and information resulting from assessments made of public school students, to aid in the development and evaluation of educational programs and policies by school districts, and to inform parents of the educational progress of their children in the public schools. Information collected under the department's statewide program of educational assessment reporting shall be utilized as part of the state report card on school performance and on statewide progress by the state in accordance with implementation of the federal No Child Left Behind Act of 2001, Pub. L. No. 107-110. The program shall include the assignment of a unique student identifier to each student attending kindergarten through grade twelve.

a. Not later than July 1, 2004, the department shall maintain an internet site that reports the following:

(1) Iowa tests of basic skills scores for each school district that administers the test and for each attendance center within the school district for grades three through eight. Each school district administering the Iowa test of basic skills shall provide a report to the department relating to each attendance center's test score averages and a longitudinal analysis of student progress as specified in paragraph "c".

The report shall contain attendance-center-level test results for the Iowa test of basic skills in the areas of reading, social studies, mathematics, and science. The report shall include, but shall not be limited to the number of students tested, the number of test results used to compute the averages, average standard score, the corresponding grade equivalent score, average stanine score for the group, and the normal curve equivalent of average standard scores, and percentile ranks based on student norms, as well as measures of student progress as specified in paragraph "c".

(2) Iowa test of educational development scores for each school district that administers the test and for each attendance center within the school district for grades nine through eleven. Each school district administering the Iowa test of educational development shall provide a report to the department relating to each attendance center's test score averages and a longitudinal analysis of student progress as specified in paragraph "c".

b. Scores required to be reported under paragraph "a", subparagraphs (1) and (2), shall be presented in percentiles that allow for comparisons between participating schools. The internet site shall include background information regarding the tests, including guidance for interpreting test scores and the number of students that did not participate in the tests and the reasons the students did not participate.

* Item veto; see message at end of the Act

c. The department shall approve the use of a single value-added system to calculate annually the amount of academic growth for each student, school, and school district in reading and mathematics, and other core academic areas where possible. The system shall at a minimum contain the following capabilities:

(1) Use of a mixed-model statistical analysis that has the ability to use all achievement test data for each student, including the data for students with missing test scores, that does not adjust downward expectations for student progress based on race, poverty, or gender, and that will provide the best linear unbiased predictions of school or other educational entity effects to minimize the impact of fortuitous accumulation of random errors.

(2) The ability to work with test data from a variety of sources, including data that are not vertically scaled, and to provide a variety of analyses of such data.

(3) The capacity to receive and report results electronically and provide support for districts utilizing the system.

(4) The ability to create for each school district a chart that reports grade-equivalent scores for grades three through eight and gains between consecutive pairs of grades for each attendance center and provides for a district-wide study of grade equivalent scores. The system shall create a chart for each district in accordance with this subparagraph.

d. Each school district shall have complete access to and utilization of its own value-added assessment reports generated by the system at the student level for the purpose of measuring student achievement at different educational entity levels.*

Sec. 6. Section 256.18, subsection 2, unnumbered paragraph 2, Code 2003, is amended by striking the unnumbered paragraph.

Sec. 7. Section 256.39, subsection 8, Code 2003, is amended by striking the subsection.

Sec. 8. Section 256A.4, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The board of directors of each school district may develop and offer a program which provides outreach and incentives for the voluntary participation of expectant parents and parents of children in the period of life from birth through age five, who reside within district boundaries, in educational family support experiences designed to assist parents in learning about the physical, mental, and emotional development of their children. ~~A district providing a family support program, which seeks additional funding under sections 294A.13 through 294A.16, shall meet the requirements of this section and the program shall be subject to approval by the department of education.~~ A board may contract with another school district or public or private nonprofit agency for provision of the approved program or program site.

Sec. 9. Section 256D.9, Code 2003, is amended to read as follows:

256D.9 FUTURE REPEAL.

This chapter is repealed effective July 1, ~~2003~~ 2004.

Sec. 10. Section 257.3, subsection 2, Code 2003, is amended to read as follows:

2. TAX FOR REORGANIZED AND DISSOLVED DISTRICTS.

a. Notwithstanding subsection 1, a reorganized school district shall cause a foundation property tax of four dollars and forty cents per thousand dollars of assessed valuation to be levied on all taxable property which, in the year preceding a reorganization, was within a school district affected by the reorganization as defined in section 275.1, or in the year preceding a dissolution was a part of a school district that dissolved if the dissolution proposal has been approved by the director of the department of education pursuant to section 275.55. ~~In the year preceding the reorganization or dissolution, the school district affected by the reorganization or the school district that dissolved must have had a certified enrollment of fewer than six hundred in order for the four-dollar-and-forty-cent levy to apply.~~

* Item veto; see message at end of the Act

b. In succeeding school years, the foundation property tax levy on that portion shall be increased to the rate of four dollars and ninety cents per thousand dollars of assessed valuation the first succeeding year, five dollars and fifteen cents per thousand dollars of assessed valuation the second succeeding year, and five dollars and forty cents per thousand dollars of assessed valuation the third succeeding year and each year thereafter.

c. The foundation property tax levy reduction pursuant to this subsection shall be available if either of the following apply:

(1) In the year preceding the reorganization or dissolution, the school district affected by the reorganization or the school district that dissolved had a certified enrollment of fewer than six hundred pupils.

(2) In the year preceding the reorganization or dissolution, the school district affected by the reorganization or the school district that dissolved had a certified enrollment of six hundred pupils or greater, and entered into a reorganization or dissolution with one or more school districts with a certified enrollment of fewer than six hundred pupils. The amount of foundation property tax reduction received by a school district qualifying for the reduction pursuant to this subparagraph shall not exceed the highest reduction amount provided in paragraphs "a" and "b" received by any of the school districts with a certified enrollment of fewer than six hundred pupils involved in the reorganization pursuant to subparagraph (1) of this paragraph "c".

d. For purposes of this section, a reorganized school district is one which absorbs at least thirty percent of the enrollment of the school district affected by a reorganization or dissolved during a dissolution and in which action to bring about a reorganization or dissolution is initiated by a vote of the board of directors or jointly by the affected boards of directors to take effect on or after July 1, 2002, and on or before July 1, 2006. Each district which initiated, by a vote of the board of directors or jointly by the affected boards, action to bring about a reorganization or dissolution to take effect on or after July 1, 2002, and on or before July 1, 2006, shall certify the date and the nature of the action taken to the department of education by January 1 of the year in which the reorganization or dissolution takes effect.

Sec. 11. Section 257.11, subsection 2, paragraph c, subparagraph (2), Code 2003, is amended to read as follows:

(2) A school district which was not participating in a whole grade sharing arrangement during the budget year beginning July 1, 2000, which executes a whole grade sharing agreement pursuant to sections 282.10 through 282.12 for the budget year beginning July 1, 2002, ~~or~~ July 1, 2003, July 1, 2004, or July 1, 2005, and which adopts a resolution jointly with the other affected boards to study the question of undergoing a reorganization or dissolution to take effect on or before July 1, 2006, shall receive a weighting of one-tenth of the percentage of the pupil's school day during which the pupil attends classes in another district, attends classes taught by a teacher who is jointly employed under section 280.15, or attends classes taught by a teacher who is employed by another school district. A district shall be eligible for supplementary weighting pursuant to this subparagraph for a maximum of three years. Receipt of supplementary weighting for a second and third year shall be conditioned upon submission of information resulting from the study to the school budget review committee indicating progress toward the objective of reorganization on or before July 1, 2006.

Sec. 12. Section 258.17, subsection 4, Code 2003, is amended to read as follows:

4. Each workstart program shall include a written agreement by the school or school district with one or more businesses from the surrounding community to provide workplace-specific training and learning programs which are related to the skills needed to succeed in those occupational areas. The proposed plan for implementation of the workstart program shall include a copy of the written agreement between the school or school district and the business or businesses and a business support component, which shall consist of financial or in-kind support, or both financial and in-kind support, from the businesses that have entered into the agreement with the school or school district. ~~The plan may provide for the utilization of phase III~~

and other available school funds in the establishment of the program. ~~A workstart program is a comprehensive school transformation program under section 294A.14.~~

Sec. 13. Section 262.9, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 29. Develop a policy, not later than August 1, 2003, that each institution of higher education under the control of the board shall approve, institute, and enforce, which prohibits students, faculty, and staff from harassing or intimidating a student or any other person on institution property who is wearing the uniform of, or a distinctive part of the uniform of, the armed forces of the United States. A policy developed in accordance with this subsection shall not prohibit an individual from wearing such a uniform on institution property if the individual is authorized to wear the uniform under the laws of a state or the United States. The policy shall provide for appropriate sanctions.

Sec. 14. Section 272.2, subsection 14, paragraph b, subparagraph (1), subparagraph subdivision (b), Code 2003, is amended by adding the following new subparagraph subdivision part:

NEW SUBPARAGRAPH SUBDIVISION PART. (viii) Sexual exploitation by a school employee.

Sec. 15. Section 272.2, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 17. Adopt criteria for administrative endorsements that allow a person to achieve the endorsement authorizing the person to serve as an elementary or secondary principal without regard to the grade level at which the person accrued teaching experience.

Sec. 16. NEW SECTION. 272.15 SCHOOL REPORTING REQUIREMENT.

The board of directors of a school district or area education agency, the superintendent of a school district or the chief administrator of an area education agency, and the authorities in charge of a nonpublic school shall report to the board the nonrenewal or termination, for reasons of alleged or actual misconduct, of a person's contract executed under sections 279.12, 279.13, 279.15 through 279.21, 279.23, and 279.24, and the resignation of a person who holds a license, certificate, or authorization issued by the board as a result of or following an incident or allegation of misconduct that, if proven, would constitute a violation of the rules adopted by the board to implement section 272.2, subsection 14, paragraph "b", subparagraph (1), when the board or reporting official has a good faith belief that the incident occurred or the allegation is true. Information reported to the board in accordance with this section is privileged and confidential, and, except as provided in section 272.13, is not subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than the respondent and the board and its employees and agents involved in licensee discipline, and is not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline. The board shall review the information reported to determine whether a complaint should be initiated. In making that determination, the board shall consider the factors enumerated in section 272.2, subsection 14, paragraph "a". For purposes of this section, unless the context otherwise requires, "misconduct" means an action disqualifying an applicant for a license or causing the license of a person to be revoked or suspended in accordance with the rules adopted by the board to implement section 272.2, subsection 14, paragraph "b", subparagraph (1).

Sec. 17. Section 272.25, subsection 4, Code 2003, is amended to read as follows:

4. A requirement that prescribes minimum experiences and responsibilities to be accomplished during the student teaching experience by the student teacher and by the cooperating teacher based upon recommendations of the department of education after consultation with teacher education faculty members in colleges and universities. The student teaching experience shall include opportunities for the student teacher to become knowledgeable about the Iowa teaching standards, including a mock evaluation performed by the cooperating teacher. The mock evaluation shall not be used as an assessment tool by the practitioner preparation

program. The student teaching experience shall consist of interactive experiences involving the college or university personnel, the student teacher, the cooperating teacher, and administrative personnel from the cooperating teacher's school district.

Sec. 18. Section 272.28, Code 2003, is amended to read as follows:

272.28 MENTORING AND INDUCTION REQUIREMENT.

1. Effective July 1, 2003, requirements for teacher licensure beyond ~~a provisional~~ an initial license shall include successful completion of a beginning teacher mentoring and induction program approved by the state board of education.

2. A teacher from an accredited nonpublic school or another state or country is exempt from the requirement of subsection 1 if the teacher can document three years of successful teaching experience ~~within the past five years~~ and meet or exceed the requirements contained in rules adopted under this chapter for endorsement and licensure.

Sec. 19. Section 273.8, subsection 2, Code 2003, is amended by striking the subsection and inserting in lieu thereof the following:

2. ELECTION OF DIRECTORS. Except as otherwise provided in subsection 2A, the board of directors of an area education agency shall be elected by a vote of the members of the boards of directors of the local school districts located within the director district. The procedure for conducting the elections shall be as follows:

a. Notice of the election shall be published by the area education agency administrator not later than July 15 in at least one newspaper of general circulation in the director district. The cost of publication shall be paid by the area education agency.

b. A candidate for election to the area education agency board shall file a statement of candidacy with the area education agency secretary not later than August 15, on forms prescribed by the department of education. The statement of candidacy shall include the candidate's name, address, and school district. The list of candidates shall be sent by the secretary of the area education agency in ballot form by certified mail to the presidents of the boards of directors of all school districts within the director district not later than September 1. In order for the ballot to be counted, the ballot must be received in the secretary's office by the end of the normal business day on September 30 or be clearly postmarked by an officially authorized postal service not later than September 29 and received by the secretary not later than noon on the first Monday following September 30.

c. The board of each separate school district that is located entirely or partially inside an area education agency director district shall cast a vote for director of the area education agency board based upon the ratio that the population of the school district, or portion of the school district, in the director district bears to the total population in the director district. The population of each school district or portion shall be determined by the department of education. The member of the area education agency board to be elected may be a member of a local school district board of directors and shall be an elector and a resident of the director district, but shall not be a school district employee.

d. Vacancies, as defined in section 277.29, in the membership of the area education agency board shall be filled for the unexpired portion of the term at a director district convention called and conducted in the manner provided in subsection 2A.

Sec. 20. Section 273.8, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. Director district convention. If no candidate files with the area education agency secretary by the deadline specified in subsection 2, or a vacancy occurs, or if otherwise required as provided in section 273.23, subsection 3, a director district convention, attended by members of the boards of directors of the local school districts located within the director district, shall be called to elect a board member for that director district. The convention location shall be determined by the area education agency administrator. Notice of the time, date, and place of a director district convention shall be published by the area education agency administrator in at least one newspaper of general circulation in the director district

at least thirty days prior to the day of the convention. The cost of publication shall be paid by the area education agency. A candidate for election to the area education agency board shall file a statement of candidacy with the area education agency secretary at least ten days prior to the date of the director district convention, on forms prescribed by the department of education, or nominations may be made at the convention by a delegate from a board of directors of a school district located within the director district. A statement of candidacy shall include the candidate's name, address, and school district. Delegates to director district conventions shall not be bound by a school board or any school board member to pledge their votes to any candidate prior to the date of the convention.

Sec. 21. Section 273.21, subsection 2, Code 2003, is amended read¹ as follows:

2. If twenty percent or more of the school districts within an affected area education agency file a petition by ~~March~~ December 1 with the affected area education agency board to consider reorganization, the affected board shall consider the request and vote on the petition. If a majority of the affected board members vote to study the reorganization of the affected area education agency, the affected board shall immediately begin the study to consider reorganization effective by July 1 of the next year.

Sec. 22. Section 273.21, subsection 3, paragraph g, Code 2003, is amended to read as follows:

g. Transmit the completed plan to the state board by ~~November 1~~ July 15. Plans received by the state board after ~~November 1~~ July 15 shall be considered for area education agency reorganization taking effect no sooner than July 1 after the next succeeding fiscal year.

Sec. 23. Section 273.21, subsection 4, Code 2003, is amended to read as follows:

4. The state board shall review the reorganization plan and shall, prior to ~~February 1~~ September 30, either approve the plan ~~or return as submitted, approve the plan contingent upon compliance with the state board's recommendations, or disapprove the plan.~~ An unapproved A contingently approved plan may shall be resubmitted with modifications to the department not later than ~~February 10~~ October 30. An approved plan shall take effect on July 1 of the fiscal year following the date of approval by the state board, ~~except that plans submitted to the state board after November 1 shall take effect no sooner than July 1 after the next succeeding fiscal year.~~

Sec. 24. Section 273.22, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. Not later than fifteen days after the state board notifies an area education agency of its approval of the area education agency's reorganization plan or dissolution proposal, the area education agency shall notify, by certified mail, the school districts located within the area education agency boundaries, the school districts and area education agencies that are contiguous to its boundaries, and any other school district under contract with the area education agency, of the state board's approval of the plan or proposal, and shall provide the department of education with a copy of any notice sent in accordance with this subsection. A petition to join an area education agency or for release from a contract with an area education agency, in accordance with subsections 4, 6, and 7,² shall be filed not later than forty-five days after the state board approves a reorganization plan or dissolution proposal in accordance with this chapter.

Sec. 25. Section 273.22, subsections 5 and 6, Code 2003, are amended to read as follows:

5. ~~The~~ Within forty-five days of the state board's approval, the board of directors of a school district that is contiguous to a newly reorganized area education agency may petition the board of directors of their current area education agency and the newly reorganized area education agency to join the newly reorganized area education agency. ~~If both area education agency boards the initial, or new board if established in time under section 273.23, subsection 3, and the board of the contiguous area education agency approve the petition, the reorganiza-~~

¹ According to enrolled Act

² Subsections "4, 5, and 6" probably intended

tion, including any school district whose petition to join the newly reorganized area education agency has been approved, shall take effect in accordance with the dates established under section 273.21, subsection 4. Both the initial, or new, and the contiguous area education agency boards must act within forty-five days of the deadline, as set forth in this subsection, for the filing of the school district's petition. A school district may appeal to the state board the decision of an area education agency board to deny the school district's petition.

6. The Within forty-five days of the state board's approval, the board of directors of a school district that is within a newly reorganized area education agency and whose school district was is contiguous to another area education agency prior to the reorganization not included in the newly reorganized area education agency may petition the board of directors of the newly reorganized area education agency and the contiguous area education agency to join that area education agency. If both area education agency boards the initial, or new board if established in time under section 273.23, subsection 3, and the board of the contiguous area education agency approve the petition, the reorganization, excluding any school district whose petition to join an area education agency contiguous to the newly reorganized area education agency has been approved, shall take effect in accordance with the dates established under section 273.21, subsection 4. Both the initial, or new, and the contiguous area education agency boards must act within forty-five days of the deadline, as set forth in this subsection, for the filing of the school district's petition. A school district may appeal to the state board the decision of an area education agency board to deny the school district's petition.

Sec. 26. Section 273.22, subsection 7, Code 2003, is amended by striking the subsection.

Sec. 27. Section 273.23, subsections 2, 3, and 5, Code 2003, are amended to read as follows:

2. Prior to the organization meeting of the board of directors of the newly formed area education agency, the boards of the former area education agencies shall designate directors to be retained as members to serve on the initial board of the newly formed area education agency. A vacancy occurs if an insufficient number of former board members reside within the newly formed area education agency's boundaries or if an insufficient number of former board members are willing to serve on the board of the newly formed area education agency. Vacancies, as defined in section 277.29, in the membership of the newly formed area education agency board shall be filled for the unexpired portion of the term at a ~~special~~ director district convention called and conducted in the manner provided in section 273.8 for ~~regular~~ director district conventions.

3. ~~Prior to the effective date of the reorganization~~ Not later than January 15 of the calendar year in which the reorganization takes effect, the initial board shall call a director district convention under the provisions of section 273.8, subsection 2 2A, for the purpose of electing a board for the reorganized area education agency. The new board shall have control of the employment of all personnel for the newly formed area education agency for the ensuing school year. Following the organization of the new board, the board shall have authority to establish policy, enter into contracts, and complete such planning and take such action as is essential for the efficient management of the newly formed area education agency.

5. The initial board, or new board if established in time under section 273.23, subsection 3, of the newly formed agency shall prepare an annual budget estimating income and expenditures for programs and services as provided in sections 273.1 through 273.9 and chapter 256B within the limits of funds provided under section 256B.9 and chapter 257. The board shall give notice of a public hearing on the proposed budget by publication in an official county newspaper in each county in the territory of the area education agency in which the principal place of business of a school district that is a part of the area education agency is located. The notice shall specify the date, which shall not be later than March 1, the time, and the location of the public hearing. The proposed budget as approved by the board shall be submitted to the state board, on forms provided by the department, no later than March 15 for approval. The state board shall review the proposed budget of the newly formed area education agency and shall, before April 1, either grant approval or return the budget without approval with comments of

the state board included. An unapproved budget shall be resubmitted to the state board for final approval not later than April 15. The state board shall give final approval only to budgets submitted by area education agencies accredited by the state board or that have been given conditional accreditation by the state board.

Sec. 28. Section 273.23, subsection 11, Code 2003, is amended to read as follows:

11. Unless the reorganization of an area education agency takes effect less than two years before the taking of the next federal decennial census, a newly formed area education agency shall, within one year of the effective date of the reorganization, redraw the boundary lines of director districts in the area education agency if a petition filed by a school district to join the newly formed area education agency, or for release from the newly formed area education agency, in accordance with section 273.22, subsections 4 through 6, and 7,³ was approved. Until the boundaries are redrawn, the boundaries for the newly formed area education agency shall be as provided in the reorganization plan approved by the state board in accordance with section 273.21.

Sec. 29. Section 273.27, subsection 2, Code 2003, is amended to read as follows:

2. Within thirty days of the hearing, the affected board shall call a director district convention in accordance with section 273.8, subsection 2A, which shall include the boards of directors in the area served by the area education agencies to which an area of the affected area education agency will be attached under the dissolution proposal, for the purpose of voting on the dissolution proposal.

Sec. 30. Section 279.3, unnumbered paragraph 2, Code 2003, is amended to read as follows:

These officers shall be appointed from outside the membership of the board ~~for terms of one year beginning with the date of appointment~~, and the appointment and qualification shall be entered of record in the minutes of the secretary. They shall qualify within ten days following appointment by taking the oath of office in the manner required by section 277.28 and filing a bond as required by section 291.2 and shall hold office until their successors are appointed and qualified.

Sec. 31. Section 279.13, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Notwithstanding the other provisions of this section, a temporary contract may be issued to a teacher to fill a vacancy created by a leave of absence in accordance with the provisions of section 29A.28, which contract shall automatically terminate upon return from military leave of the former incumbent of the teaching position and which contract shall not be subject to the provisions of sections 279.15 through 279.19, or section 279.27. A separate extracurricular contract issued pursuant to section 279.19A to a person issued a temporary contract under this section shall automatically terminate with the termination of the temporary contract as required under section 279.19A, subsection 8.

Sec. 32. Section 279.23, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the other provisions of this section, a temporary contract may be issued to an administrator to fill a vacancy created by a leave of absence in accordance with the provisions of section 29A.28, which contract shall automatically terminate upon return from military leave of the former incumbent of the administrator position and which contract shall not be subject to the provisions of sections 279.24 and section 279.25.

Sec. 33. Section 279.46, Code 2003, is amended to read as follows:

279.46 RETIREMENT INCENTIVES — TAX.

The board of directors of a school district may adopt a program for payment of a monetary

³ Subsections "4, 5, and 6" probably intended

bonus, continuation of health or medical insurance coverage, or other incentives for encouraging its employees to retire before the normal retirement date as defined in chapter 97B. The program is available only to employees who notify the board of directors prior to April 1 of the fiscal year that they intend to retire not later than the start of the next following June 30 school calendar. The age at which employees shall be designated eligible for the program shall be at the discretion of the board. An employee retiring under this section may apply for a retirement allowance under chapter 97B or chapter 294. The board may include in the district management levy an amount to pay the total estimated accumulated cost to the school district of the health or medical insurance coverage, bonus, or other incentives for employees within the age range of fifty-five to sixty-five years of age who retire under this section.

Sec. 34. Section 280.14, Code 2003, is amended to read as follows:

280.14 SCHOOL REQUIREMENTS — ADMINISTRATION.

1. The board or governing authority of each school or school district subject to the provisions of this chapter shall establish and maintain adequate administration, school staffing, personnel assignment policies, teacher qualifications, certification requirements, facilities, equipment, grounds, graduation requirements, instructional requirements, instructional materials, maintenance procedures and policies on extracurricular activities. In addition the board or governing authority of each school or school district shall provide such principals as it finds necessary to provide effective supervision and administration for each school and its faculty and student body.

2. An individual who is employed or contracted as a superintendent by a school or school district may also serve as an elementary or secondary principal in the same school or school district.

Sec. 35. Section 282.18, subsection 3, Code 2003, is amended to read as follows:

3. In all districts involved with voluntary or court-ordered desegregation, minority and non-minority pupil ratios shall be maintained according to the desegregation plan or order. The superintendent of a district subject to voluntary or court-ordered desegregation may deny a request for transfer under this section if the superintendent finds that enrollment or release of a pupil will adversely affect the district's implementation of the desegregation order or plan, unless the transfer is requested by a pupil whose sibling is already participating in open enrollment to another district, or unless the request for transfer is submitted to the district in a timely manner as required under subsection 2 prior to the adoption of a desegregation plan by the district. If a transfer request would facilitate a voluntary or court-ordered desegregation plan, the district shall give priority to granting the request over other requests.

A parent or guardian, whose request has been denied because of a desegregation order or plan, may appeal the decision of the superintendent to the board of the district in which the request was denied. The board may either uphold or overturn the superintendent's decision. A decision of the board to uphold the denial of the request is subject to appeal to the district court in the county in which the primary business office of the district is located. By July 1, 2004, the state board of education shall adopt rules establishing guidelines and a review process for school districts that adopt voluntary desegregation plans. The guidelines shall include criteria and standards that school districts must follow when developing a voluntary desegregation plan. The department of education shall provide technical assistance to a school district that is seeking to adopt a voluntary desegregation plan. A school district implementing a voluntary desegregation plan prior to July 1, 2004, shall have until July 1, 2006, to comply with guidelines adopted by the state board pursuant to this section.

Sec. 36. Section 282.18, subsection 7, Code 2003, is amended to read as follows:

7. A pupil participating in open enrollment shall be counted, for state school foundation aid purposes, in the pupil's district of residence. A pupil's residence, for purposes of this section, means a residence under section 282.1. The board of directors of the district of residence shall

pay to the receiving district the state cost per pupil for the previous school year, plus any moneys received for the pupil as a result of the non-English speaking weighting under section 280.4, subsection 3, for the previous school year multiplied by the state cost per pupil for the previous year. ~~The district of residence shall also transmit the phase III moneys allocated to the district for the previous year for the full-time equivalent attendance of the pupil, who is the subject of the request, to the receiving district specified in the request for transfer.~~ If the pupil participating in open enrollment is also an eligible pupil under chapter 261C, the receiving district shall pay the tuition reimbursement amount to an eligible postsecondary institution as provided in section 261C.6.

Sec. 37. Section 284.2, subsections 1 and 3, Code 2003, are amended to read as follows:

1. "Beginning teacher" means an individual serving under an initial ~~provisional~~ license, issued by the board of educational examiners under chapter 272, who is assuming a position as a classroom teacher. For purposes of the beginning teacher mentoring and induction program created pursuant to section 284.5, "beginning teacher" also includes preschool teachers who are licensed by the board of educational examiners under chapter 272 and are employed by a school district or area education agency.

3. "Comprehensive evaluation" means a summative evaluation of a beginning teacher conducted by an evaluator for purposes of determining a beginning teacher's level of competency, ~~relative to the Iowa teaching standards and~~ for recommendation for licensure based upon ~~models developed pursuant to section 256.9, subsection 50~~ the Iowa teaching standards, and to determine whether the teacher's practice meets the school district expectations for a career teacher.

Sec. 38. Section 284.3, subsection 2, paragraphs a and b, Code 2003, are amended to read as follows:

a. ~~By July 1, 2002, for~~ For purposes of comprehensive evaluations for beginning teachers required to allow beginning teachers to progress to career teachers, standards and criteria that are the Iowa teaching standards specified in subsection 1 and the ~~model~~ criteria for the Iowa teaching standards developed by the department in accordance with section 256.9, subsection 50. These standards and criteria shall be set forth in an instrument provided by the department. The comprehensive evaluation and instrument are not subject to negotiations or grievance procedures pursuant to chapter 20 or determinations made by the board of directors under section 279.14. A local school board and its certified bargaining representative may negotiate, pursuant to chapter 20, evaluation and grievance procedures for beginning teachers that are not in conflict with this chapter. If, in accordance with section 279.19, a beginning teacher appeals the determination of a school board to an adjudicator under section 279.17, the adjudicator selected shall have successfully completed training related to the Iowa teacher standards, the ~~model~~ criteria adopted by the state board of education in accordance with subsection 3, ~~as enacted by this Act~~, and any additional training required under rules adopted by the public employment relations board in cooperation with the state board of education.

b. ~~By July 1, 2004~~ 2005, for purposes of performance reviews for teachers other than beginning teachers, evaluations that contain, at a minimum, the Iowa teaching standards specified in subsection 1, as well as the ~~model~~ criteria for the Iowa teaching standards developed by the department in accordance with section 256.9, subsection 50. A local school board and its certified bargaining representative may negotiate, pursuant to chapter 20, additional teaching standards and criteria. A local school board and its certified bargaining representative may negotiate, pursuant to chapter 20, evaluation and grievance procedures for teachers other than beginning teachers that are not in conflict with this chapter.

Sec. 39. Section 284.3, subsection 3, Code 2003, is amended to read as follows:

3. The state board shall adopt by rule pursuant to chapter 17A the ~~model~~ criteria developed by the department in accordance with section 256.9, subsection 50.

Sec. 40. Section 284.4, subsection 1, paragraphs c and d, Code 2003, are amended to read as follows:

c. Provide, beginning in the ~~fourth~~ fifth year of participation, the equivalent of two additional contract days, outside of instruction time, than were provided in the school year preceding the first year of participation, to provide additional time for teacher career development that aligns with student learning and teacher development needs, including the integration of technology into curriculum development, in order to achieve attendance center and district-wide student achievement goals outlined in the district comprehensive school improvement plan. School districts are encouraged to develop strategies for restructuring the school calendar to provide for the most effective professional development, evaluate their current career development alignment with their student achievement goals and research-based instructional strategies, and implement district career development plans. A school district that provides the equivalent of ten or more contract days for career development is exempt from this paragraph.

d. Adopt a district and teacher career development ~~program plans~~ in accordance with this chapter.

Sec. 41. Section 284.5, subsection 6, Code 2003, is amended to read as follows:

6. Upon completion of the program, the beginning teacher shall be comprehensively evaluated to determine if the teacher meets expectations to move to the career level. The school district or area education agency that employs the beginning teacher shall recommend for ~~an educational~~ a standard license a beginning teacher who is determined through a comprehensive evaluation to demonstrate competence in the Iowa teaching standards. A school district or area education agency may offer a beginning teacher a third year of participation in the program if, after conducting a comprehensive evaluation, the school district determines that the teacher is likely to successfully complete the mentoring and induction program by the end of the third year of eligibility. A teacher granted a third year of eligibility shall develop a teacher's mentoring and induction program plan in accordance with this chapter and shall undergo a comprehensive evaluation at the end of the third year. The board of educational examiners shall grant a one-year extension of the beginning teacher's ~~provisional~~ initial license upon notification by the school district that the teacher will participate in a third year of the school district's program.

Sec. 42. Section 284.6, subsection 5, Code 2003, is amended to read as follows:

5. The teacher's evaluator shall annually meet with the teacher to review progress in meeting the goals in the teacher's individual plan. The teacher shall present to the evaluator evidence of progress. The purpose of the meeting shall be to review the teacher's progress in meeting career development goals in the plan and to review collaborative work with other staff on student achievement goals and to modify as necessary the teacher's individual plan to reflect the individual teacher's and the school district's needs and the individual's progress in meeting the goals in the plan. The teacher's supervisor and the evaluator shall review, modify, or accept modifications made to the teacher's individual plan.

Sec. 43. Section 284.7, subsection 1, paragraph a, subparagraph (1), subparagraph subdivision (b), Code 2003, is amended to read as follows:

(b) Holds a ~~provisional~~ an initial teacher license issued by the board of educational examiners.

Sec. 44. Section 284.7, subsection 2, paragraph a, subparagraph (1), Code 2003, is amended to read as follows:

(1) A career II teacher is a teacher who meets the requirements of subsection 1, paragraph "b", has met the requirements established by the school district that employs the teacher, and is evaluated by the school district as demonstrating the competencies of a career II teacher.

The teacher shall have successfully completed a comprehensive evaluation performance review in order to be classified as a career II teacher.

Sec. 45. Section 284.7, subsection 4, Code 2003, is amended to read as follows:

4. If a comprehensive evaluation performance review for a teacher is conducted in the fifth year of the teacher's status at the career level, and indicates that the teacher's practice no longer meets the standards for that level, a comprehensive evaluation performance review shall be conducted in the next following school year. If the comprehensive evaluation performance review establishes that the teacher's practice fails to meet the standards for that level, the teacher shall be ineligible for any additional pay increase other than a cost-of-living increase.

Sec. 46. Section 284.7, subsection 6, paragraph a, Code 2003, is amended to read as follows:

a. ~~For the school year beginning July 1, 2002, and ending June 30, 2003, if~~ If the licensed employees of a school district or area education agency receiving funds pursuant to section 284.13, subsection 1, paragraph "g" or "h", for purposes of this section, are organized under chapter 20 for collective bargaining purposes, the board of directors and the certified bargaining representative for the licensed employees shall mutually agree upon a formula for distributing the funds among the teachers employed by the school district or area education agency. However, the school district must comply with the salary minimums provided for in this section. The parties shall follow the negotiation and bargaining procedures specified in chapter 20 except that if the parties reach an impasse, neither impasse procedures agreed to by the parties nor sections 20.20 through 20.22 shall apply and the funds shall be paid as provided in paragraph "b". Negotiations under this section are subject to the scope of negotiations specified in section 20.9. If a board of directors and the certified bargaining representative for licensed employees have not reached mutual agreement by July 15, 2002, for the distribution of funds received pursuant to section 284.13, subsection 1, paragraph "g" or "h", by July 15 of the fiscal year for which the funds are distributed, paragraph "b" of this subsection shall apply.

Sec. 47. Section 284.8, subsection 2, Code 2003, is amended to read as follows:

2. If a supervisor or an evaluator determines, at any time, as a result of a teacher's performance that the teacher is not meeting district expectations under the Iowa teaching standards specified in section 284.3, subsection 1, paragraphs "a" through "g", the ~~model~~ criteria for the Iowa teaching standards developed by the department in accordance with section 256.9, subsection 50, ~~or~~ and any other standards or criteria established in the collective bargaining agreement, the evaluator shall, at the direction of the teacher's supervisor, recommend to the district that the teacher participate in an intensive assistance program. The intensive assistance program and its implementation are not subject to negotiation or grievance procedures established pursuant to chapter 20. By July 1, ~~2004~~ 2005, all school districts must be prepared to offer an intensive assistance program.

Sec. 48. Section 284.9, subsection 3, Code 2003, is amended to read as follows:

3. To assure fairness and consistency in the evaluation process, the review panels may perform random audits of the comprehensive evaluations and performance reviews conducted by evaluators throughout the state, and may randomly review ~~performance-based evaluation models~~ how the evaluators are evaluating teachers based upon the Iowa teaching standards developed by school districts in accordance with section 284.3, subsection 2. ~~The review of the evaluation models shall ensure that the model is at least equivalent to the state models developed pursuant to section 256.9, subsection 50.~~

Sec. 49. Section 284.10, subsections 4 and 5, Code 2003, are amended to read as follows:

4. ~~By July 1, 2003, a~~ A higher education institution approved by the state board to provide an administrator preparation program shall incorporate the evaluator training program into the program offered by the institution.

5. ~~Beginning July 1, 2003, the~~ The board of educational examiners shall require certification as a condition of issuing or renewing an administrator's license.

Sec. 50. Section 284.11, subsections 1 and 6, Code 2003, are amended to read as follows:

1. It is the intent of the general assembly to create a statewide team-based variable pay program to reward individual attendance centers for improvement in student achievement. A pilot program is established to give Iowa school districts with one or more participating attendance centers the opportunity to explore and demonstrate successful methods to implement team-based variable pay and to compare student achievement gains in school districts participating in the program with gains in school districts similar in nature that are not participating in the program. The department shall develop and administer the pilot program and shall provide technical assistance in the areas of goal setting and student assessments to school districts approved to participate in the pilot program. Preference shall be given to school districts that were previously approved to participate in a pilot program administered by the department in accordance with this section. Each school district approved by the department to participate in the pilot program shall administer valid and reliable standardized assessments at the beginning and end of the school year to demonstrate growth in student achievement.

6. A district electing to initiate a team-based variable pay plan according to this section during the school year beginning July 1, ~~2001~~ 2003, shall notify the department of its election in writing no later than August 1, ~~2001~~ 2003. The department shall certify the school district plan by October 1, ~~2001~~ 2003.

**Sec. 51. Section 285.5, subsection 9, Code 2003, is amended to read as follows:*

9. All bus drivers, except substitute and part-time bus drivers, for school-owned equipment shall be under contract with the board. The director of the department of education shall prepare a uniform contract containing provision not in conflict with this chapter which shall be used by all school boards in contracting with drivers of school-owned vehicles.*

Sec. 52. Section 285.10, subsection 7, paragraph b, Code 2003, is amended to read as follows:

b. May purchase buses and enter into contracts to pay for such buses over a five-year period as follows: one-fourth of the cost when the bus is delivered and the balance in equal annual installments, plus simple interest due. The interest rate shall be the lowest rate available and shall not exceed the rate in effect under section 74A.2. The bus shall serve as security for balance due. Competitive bids on comparable equipment shall be requested on all school bus ~~body and chassis~~ purchases and shall be based upon minimum construction standards established by the department of education. ~~Separate body and chassis bids~~ Bids shall be requested unless the bus is constructed as an integral unit, ~~inseparable as to body and chassis, by the manufacturer or is a used or demonstrator bus.~~

Sec. 53. Section 294A.1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The purpose of this chapter is to promote excellence in education. In order to maintain and advance the educational excellence in the state of Iowa, this chapter establishes the Iowa educational excellence program. The program shall consist of ~~three~~ two major phases addressing the following:

Sec. 54. Section 294A.1, subsection 3, Code 2003, is amended by striking the subsection.

Sec. 55. Section 294A.3, unnumbered paragraph 2, Code 2003, is amended by striking the unnumbered paragraph.

Sec. 56. Section 294A.22, unnumbered paragraph 3, Code 2003, is amended to read as follows:

Payments made to a teacher by a school district or area education agency under this chapter

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are wages for the purposes of chapter 91A ~~except for payments made under an approved phase III plan where a modified payment plan has either been mutually agreed upon by the board of directors and the certified bargaining representative for certificated employees or for a district that is not organized for collective bargaining purposes where a modified payment plan is adopted by the board.~~

Sec. 57. Section 321.375, subsection 2, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Any of the following shall constitute grounds for a school bus driver's immediate suspension from duties, pending a termination hearing by the board of directors of a public school district or the authorities in charge in a nonpublic school if the bus driver is under contract, pending confirmation of the grounds by the school district or accredited nonpublic school if the bus driver is a part-time or substitute bus driver who is not under contract, or pending confirmation of the grounds by the employer of the school bus driver if the employer is not a school district or accredited nonpublic school by the board:

Sec. 58. Section 321.375, subsection 2, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. A change in circumstances indicating that the driver is no longer physically or mentally competent. For the purpose of an insulin-dependent diabetic, a change in circumstances includes the following:

(1) Results of a glycosylated hemoglobin test indicating values less than 6.0 percent or greater than 9.5 percent unless accompanied by the required medical opinion that the event was incidental and not an indication of failure to control glucose levels.

(2) Results of self-monitoring indicate glucose levels less than one hundred milligrams per deciliter or greater than three hundred milligrams per deciliter, until self-monitoring indicates compliance with specifications.

(3) Experiencing a loss of consciousness or control relating to diabetes.

(4) Failing to maintain or falsifying the required reports.

Sec. 59. Section 321.375, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 3. a. Notwithstanding any provision to the contrary, an insulin-dependent diabetic may qualify under subsection 1, paragraph "d", for purposes of operating a school bus under this section if a person identified by federal or state law as authorized to perform physical examinations annually provides a signed statement indicating that based upon an annual physical examination the individual is physically able to perform the required functions despite insulin dependency. The insulin-dependent diabetic shall not qualify to operate a school bus if, at minimum, the individual results of a glycosylated hemoglobin test indicate values less than 6.0 percent or greater than 9.5 percent on other than an incidental basis and not as a result of failure to control glucose levels. The statement shall also indicate that within the past three years the insulin-dependent diabetic has completed instruction to address diabetes management and driving safety, signs and symptoms of hypoglycemia and hyperglycemia, and what procedures must be followed if complications arise.

b. A school district or authorities in charge of the nonpublic school that employs or otherwise secures the services of an individual with an authorization who is an insulin-dependent diabetic shall monitor the insulin-dependent diabetic to determine that they are in compliance with all of the following:

(1) Self-monitoring blood glucose and demonstrating conformance with requirements, more than one hundred milligrams per deciliter and less than three hundred milligrams per deciliter, within one hour before driving a school bus and approximately every four hours while on duty using a United States food and drug administration approved device.

(2) Reporting immediately to the school district or school any failure to comply with specific glucose level requirements as listed in subparagraph (1) or loss of consciousness or control.

(3) Carrying a source of readily absorbable, fast-acting glucose while on duty.

(4) Maintaining a daily log of all glucose test results for the previous six-month period and providing copies to the school district or school, the examining physician, and the department of education upon request.

(5) Submitting all required department of education forms within the prescribed timelines.

Sec. 60. Section 321J.22, subsection 2, paragraph d, Code 2003, is amended to read as follows:

d. The department of education shall establish reasonable fees to defray the expense of obtaining classroom space, instructor salaries, and class materials for courses offered both by community colleges and by substance abuse treatment programs licensed under chapter 125, and for administrative expenses incurred by the department of education in implementing subsection 5 on behalf of in-state and out-of-state offenders.

Sec. 61. Section 331.909, subsection 2, Code 2003, is amended to read as follows:

2. The activities of a multidisciplinary community services team shall not duplicate the activities of a multidisciplinary team for child abuse under section 235A.13, dependent adult abuse activities under section 235B.6, ~~area education agency activities under section 294A.14,~~ or child victim services provided under section 915.35.

Sec. 62. Section 614.1, subsection 12, Code 2003, is amended to read as follows:

12. SEXUAL ABUSE OR SEXUAL EXPLOITATION BY A COUNSELOR, OR THERAPIST, OR SCHOOL EMPLOYEE. An action for damages for injury suffered as a result of sexual abuse, as defined in section 709.1, by a counselor, ~~or~~ therapist, or school employee, as defined in section 709.15, or as a result of sexual exploitation by a counselor, ~~or~~ therapist, or school employee shall be brought within five years of the date the victim was last treated by the counselor or therapist, or within five years of the date the victim was last enrolled in or attended the school.

Sec. 63. Section 692A.1, subsection 10, Code 2003, is amended to read as follows:

10. "Sexual exploitation" means sexual exploitation by a counselor, ~~or~~ therapist, or school employee under section 709.15.

Sec. 64. Section 702.11, subsection 2, paragraph d, Code 2003, is amended to read as follows:

d. Sexual exploitation by a counselor, ~~or~~ therapist, or school employee in violation of section 709.15.

Sec. 65. Section 709.15, Code 2003, is amended to read as follows:

709.15 SEXUAL EXPLOITATION BY A COUNSELOR, OR THERAPIST, OR SCHOOL EMPLOYEE.

1. As used in this section:

a. "Counselor or therapist" means a physician, psychologist, nurse, professional counselor, social worker, marriage or family therapist, alcohol or drug counselor, member of the clergy, or any other person, whether or not licensed or registered by the state, who provides or purports to provide mental health services.

b. "Emotionally dependent" means that the nature of the patient's or client's or former patient's or client's emotional condition or the nature of the treatment provided by the counselor or therapist is such that the counselor or therapist knows or has reason to know that the patient or client or former patient or client is significantly impaired in the ability to withhold consent to sexual conduct, as described in ~~paragraph "f" subsection 2,~~ by the counselor or therapist.

For the purposes of ~~paragraph "f" subsection 2,~~ a former patient or client is presumed to be emotionally dependent for one year following the termination of the provision of mental health services.

c. "Former patient or client" means a person who received mental health services from the counselor or therapist.

d. "Mental health service" means the treatment, assessment, or counseling of another person for a cognitive, behavioral, emotional, mental, or social dysfunction, including an intrapersonal or interpersonal dysfunction.

e. "Patient or client" means a person who receives mental health services from the counselor or therapist.

f. "School employee" means a practitioner as defined in section 272.1.

g. "Student" means a person who is currently enrolled in or attending a public or nonpublic elementary or secondary school, or who was a student enrolled in or attended a public or nonpublic elementary or secondary school within thirty days of any violation of subsection 3.

f. 2. "Sexual ~~Sexual~~ exploitation by a counselor or therapist" ~~therapist~~ occurs when any of the following are found:

(1) a. A pattern or practice or scheme of conduct to engage in any of the conduct described in subparagraph (2) or (3) paragraph "b" or "c".

(2) b. Any sexual conduct, with an emotionally dependent patient or client or emotionally dependent former patient or client for the purpose of arousing or satisfying the sexual desires of the counselor or therapist or the emotionally dependent patient or client or emotionally dependent former patient or client, which includes but is not limited to the following: kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act as defined in section 702.17.

(3) c. Any sexual conduct with a patient or client or former patient or client within one year of the termination of the provision of mental health services by the counselor or therapist for the purpose of arousing or satisfying the sexual desires of the counselor or therapist or the patient or client or former patient or client which includes but is not limited to the following: kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act as defined in section 702.17.

"Sexual ~~Sexual~~ exploitation by a counselor or therapist" ~~therapist~~ does not include touching which is part of a necessary examination or treatment provided a patient or client by a counselor or therapist acting within the scope of the practice or employment in which the counselor or therapist is engaged.

3. Sexual exploitation by a school employee occurs when any of the following are found:

a. A pattern or practice or scheme of conduct to engage in any of the conduct described in paragraph "b".

b. Any sexual conduct with a student for the purpose of arousing or satisfying the sexual desires of the school employee or the student. Sexual conduct includes but is not limited to the following: kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act as defined in section 702.17.

Sexual exploitation by a school employee does not include touching that is necessary in the performance of the school employee's duties while acting within the scope of employment.

2. 4. a. A counselor or therapist who commits sexual exploitation in violation of subsection 1 2, paragraph "f" "a", subparagraph (1), commits a class "D" felony.

3. b. A counselor or therapist who commits sexual exploitation in violation of subsection 1 2, paragraph "f" "b", subparagraph (2), commits an aggravated misdemeanor.

4. c. A counselor or therapist who commits sexual exploitation in violation of subsection 1 2, paragraph "f" "c", subparagraph (3), commits a serious misdemeanor. In lieu of the sentence provided for under section 903.1, subsection 1, paragraph "b", the offender may be required to attend a sexual abuser treatment program.

5. a. A school employee who commits sexual exploitation in violation of subsection 3, paragraph "a", commits a class "D" felony.

b. A school employee who commits sexual exploitation in violation of subsection 3, paragraph "b", commits an aggravated misdemeanor.

Sec. 66. Section 802.2A, subsection 2, Code 2003, is amended to read as follows:

2. An indictment or information for sexual exploitation by a counselor, ~~or therapist, or school employee~~ under section 709.15 committed on or with a person who is under the age of eighteen shall be found within ten years after the person upon whom the offense is committed attains eighteen years of age. An information or indictment for any other sexual exploitation shall be found within ten years of the date the victim was last treated by the counselor or therapist, or within ten years of the date the victim was enrolled in or attended the school.

Sec. 67. Section 903B.1, subsection 4, paragraph h, Code 2003, is amended to read as follows:

h. Sexual exploitation ~~by a counselor~~ in violation of section 709.15.

Sec. 68. MINIMUM TEACHER SALARY REQUIREMENTS — FY 2003-2004.

1. Notwithstanding section 284.7, subsection 1, paragraph “a”, subparagraph (2), the minimum teacher salary paid by a school district or area education agency for purposes of teacher compensation in accordance with chapter 284, for the fiscal year beginning July 1, 2003, and ending June 30, 2004, shall be the minimum salary amount the school district or area education agency paid to a first-year beginning teacher or, the minimum salary amount the school district or area education agency would have paid a first-year beginning teacher if the school district or area education agency had participated in the program in the 2001-2002 school year, in accordance with section 284.7, subsection 1, Code Supplement 2001. If the school district or area education agency did not employ a first-year beginning teacher in the 2001-2002 school year, the minimum salary is the amount that the district would have paid a first-year beginning teacher under chapter 284 in the 2001-2002 school year.

2. Notwithstanding section 284.7, subsection 1, paragraph “b”, subparagraph (2), the minimum career teacher salary paid to a career teacher who was a beginning teacher in the 2001-2002 school year, by a school district or area education agency participating in the student achievement and teacher quality program, for the school year beginning July 1, 2003, and ending June 30, 2004, shall be, unless the school district has a minimum career teacher salary that exceeds thirty thousand dollars, one thousand dollars greater than the minimum salary amount the school district or area education agency paid to a first-year beginning teacher if the school district or area education agency participated in the program during the 2001-2002 school year, or the minimum salary amount the school district or area education agency would have paid a first-year beginning teacher if the school district or area education agency had participated in the program in the 2001-2002 school year, in accordance with section 284.7, subsection 1, Code Supplement 2001.

3. Notwithstanding section 284.7, subsection 1, paragraph “b”, subparagraph (2), and except as provided in subsection 2, the minimum career teacher salary paid by a school district or area education agency participating in the student achievement and teacher quality program, for purposes of teacher compensation in accordance with chapter 284, for the school year beginning July 1, 2003, and ending June 30, 2004, shall be the minimum salary amount the school district or area education agency paid to a career teacher if the school district or area education agency participated in the program during the 2001-2002 school year, or, the minimum salary amount the school district or area education agency would have paid a career teacher if the school district or area education agency had participated in the program in the 2001-2002 school year, in accordance with section 284.7, subsection 1, Code Supplement 2001.

*Sec. 69. *READING INSTRUCTION PILOT PROGRAM.*

1. *Recognizing the state’s goals of assisting children to grow, develop, and learn to their fullest extent, empowering students in grades kindergarten through eight to become good readers, and supporting student achievement and overall academic performance, and recognizing the importance of instructional methodologies and strategies for reading, a reading instruction pilot program is established. The objective of the program shall be to improve student reading*

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achievement and provide interventions needed to assist struggling readers by increasing teacher capacity to provide reading instruction.

2. The program shall be established for the school year beginning July 1, 2003, in a school district with an enrollment of at least six hundred pupils in grades kindergarten through twelve, or in two or more school districts, each with enrollments of less than six hundred pupils in grades kindergarten through twelve, jointly participating in the program and with a combined enrollment of at least six hundred pupils in grades kindergarten through twelve. The program shall involve the implementation of systematic intensive phonics reading instruction and direct instruction for students up to and including the eighth grade. The program shall meet the standards set forth by the United States department of education's national institute for literacy, which has identified the five areas of successful reading instruction as phonemic awareness, phonics, fluency, vocabulary, and text comprehension.

3. The program shall offer training and ongoing support for participating teachers and provide continuous formal and informal student assessment to demonstrate results. Teachers in the school district or group of districts selected shall, prior to the beginning of classes for the school year beginning July 1, 2003, participate in an in-service training program to prepare for implementation of the program. The in-service training shall include education and training in curriculum content and methods of instruction relating to systematic intensive phonics reading instruction and direct instruction, student assessment procedures and techniques, and effective interventions to address specific reading difficulties, and shall continue on an ongoing basis throughout the school year.

4. The program shall be administered by the department of education. The department shall provide notice to school districts regarding the existence of the program, shall provide technical assistance regarding application submission and information regarding program objectives and operation, and shall provide program implementation assistance to the school district or group of districts selected. A school district or group of districts wishing to participate shall submit an application to the department and the department shall, before July 1, 2003, select a school district or group of districts for participation in the pilot program. In the application the school district or group of districts shall propose a districtwide plan for effective reading interventions involving an approach to beginning reading instruction and boosting the reading levels of students using systematic intensive phonics instruction and direct instruction. A school district submitting an application shall also indicate a willingness to provide faculty committed to implementation of the program and participation in the in-service training, and shall include a plan for conducting pretesting and posttesting to demonstrate results. The department shall select for participation a school district or group of districts, after consultation with the chairpersons and ranking members of the senate and house standing committees on education, which demonstrates an ability to implement program requirements and adhere to the national institute for literacy standards.

5. Upon completion of the pilot program, the school district shall submit a report to the department regarding the impact of the program on student academic achievement. The department shall prepare a report summarizing these results, and comparing them to student academic achievement gains in similar school districts that did not participate in the program. The department report shall include recommendations for statewide implementation of the pilot program, and shall be submitted to the chairpersons and ranking members of the senate and house standing committees on education by December 15, 2004.

6. The establishment of the program pursuant to this section shall be contingent upon an appropriation for purposes of the program for the fiscal year beginning July 1, 2003, and ending June 30, 2004. Funds provided to the school district or group of districts selected shall be used by the district or group of districts to provide stipends and travel expense payments during the summer teacher in-service training, ongoing training and support during the school year, expense payments relating to data collection, and payments for the costs of reading instruction relating to the program.*

Sec. 70. Sections 294A.12 through 294A.20, and 294A.23, Code 2003, are repealed.

* Item veto; see message at end of the Act

Sec. 71. EFFECTIVE DATES.

1. Section 9 of this Act, relating to the repeal of chapter 256D, being deemed of immediate importance, takes effect upon enactment.

2. Section 10 of this Act, relating to school reorganization incentives, being deemed of immediate importance, takes effect upon enactment.

3. Section 69 of this Act, relating to a reading instruction pilot program, being deemed of immediate importance, takes effect upon enactment.

Sec. 72. EFFECTIVE AND RETROACTIVE APPLICABILITY PROVISION. Section 35 of this Act, relating to a request for open enrollment submitted to a district prior to the district's adoption of a desegregation plan, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 2002, for open enrollment transfer requests received by a school district on or after July 1, 2002.

Approved May 30, 2003, with exceptions noted.

THOMAS J. VILSACK, Governor

Dear Mr. Secretary:

I hereby transmit House File 549, an Act relating to the duties and operations of the department of education, the board of educational examiners, the state board of regents and its universities, and school boards, and to property tax school reorganization incentives; requiring the establishment of a reading instruction pilot program; and including effective and retroactive applicability date provisions.

House File 549 is vitally important for education in Iowa. This bill expands the current data management system to meet the federal requirements of the No Child Left Behind initiative. It also extends the K-3 Class Size reduction program for an additional fiscal year. While this falls short of my recommendation, it allows us to continue working toward the goal of reducing K-3 class sizes to 17 students per teacher. House File 549 expands reorganization incentives for K-12 school districts and makes several changes to clarify the reorganization process for AEAs. It also makes necessary Code changes to the teacher quality program.

House File 549 is approved on this date, with the following exceptions, which I hereby disapprove.

I am unable to approve the item designated as Section 5. This section requires the Department of Education to develop and implement a statewide program for educational assessment reporting and to use this information for a statewide report card. The text of paragraph "c" which describes the "single value-added system" requires the use of a proprietary system. I do not believe that it is in the best interest of school districts and the Department of Education to mandate a reporting system that is redundant to the requirement of the No Child Left Behind Act. I also do not support the mandate that all districts and the Department of Education must use a single proprietary system for analysis and reporting of assessment results.

I am unable to approve the item designated as Section 51 which removes the contract requirement for part-time and substitute bus drivers. The current law provides for a standard uniform contract for all drivers of school-owned equipment. This language eliminates secure employment relationships for bus drivers who are often responsible for the safety of our children.

I am unable to approve the items designated as Section 69 and Section 71, subsection 3. Section 69 requires the Department of Education to establish and administer a reading instruction pilot program beginning in the fall of 2003. A considerable effort is currently underway in the

* Item veto; see message at end of the Act

Department of Education given the requirements of the federally funded reading program, Reading First. The Reading First program will in the 2003-2004 school year involve 30 school districts across the state to improve reading skills. The federal program guidelines and evaluation requirements are very similar to the requirements in Section 69. The proposed reading program would duplicate current efforts and it is also very late for a district to plan to participate in a new program this fall.

For the above reasons, I respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 549 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 181

APPROPRIATIONS — ADMINISTRATION AND REGULATION

H.F. 655

AN ACT relating to and making appropriations to certain state departments, agencies, funds, and certain other entities, providing for regulatory authority, and other properly related matters.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I

Section 1. AUDITOR OF STATE. There is appropriated from the general fund of the state to the office of the auditor of state for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,157,822
.....	FTEs	105.72

The auditor of state may retain additional full-time equivalent positions as is reasonable and necessary to perform governmental subdivision audits which are reimbursable pursuant to section 11.20 or 11.21, to perform audits which are requested by and reimbursable from the federal government, and to perform work requested by and reimbursable from departments or agencies pursuant to section 11.5A or 11.5B. The auditor of state shall notify the department of management, the legislative fiscal committee, and the legislative fiscal bureau of the additional full-time equivalent positions retained.

Sec. 2. IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD. There is appropriated from the general fund of the state to the Iowa ethics and campaign disclosure board for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, for the purposes designated: